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SCOPE FOR EXPANDING EXPORTS OF DEVELOPING COUNTRIES IN SPECIFIC SERVICES SECTORS THROUGH ALL GATS MODES OF SUPPLY, TAKING INTO ACCOUNT THEIR INTERRELATIONSHIP, THE ROLE OF INFORMATION TECHNOLOGY AND OF NEW BUSINESS PRACTICES

Note by the UNCTAD secretariat

Executive Summary

Globalization, liberalization and new information technologies are providing new opportunities for trade in services. These opportunities, however, will only materialize if the constraints facing developing countries in building domestic services capacity and improving the competitiveness of their services exports are dealt with effectively. A more systematic approach to providing an enabling environment for delivering service export products that are high-quality and cost competitive is needed. Adopting a supportive trade and investment regime will be essential for developing countries to maximize the benefits from the increased tradability of services. The key to expansion of services exports of developing countries is fulfilling international quality standards and achieving recognition of the qualifications of their professionals, as well as removal of barriers affecting sectors of export interest to them and movement of natural persons, as envisaged in GATS Article IV. Improving quality involves increasing the competitiveness of labour markets, as well as improving the educational system and facilitating training, particularly in computer skills and modern management techniques. Subregional agreements could serve as a platform for exposing developing countries' firms to increased competition that would allow forging of regional linkages among firms, consolidation, and greater specialization. Given that access to services markets is modulated by regulations, the application of GATS disciplines on domestic regulations and the development of further disciplines under Article VI (Domestic Regulations) and VII (Recognition) are particularly important when devising strategies for expansion of services exports.

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CONTENTS

		Paragraphs
	Introduction	1-4
I.	Expansion of trade in specific sectors and the role of modes of supply	5-55
	A. Modes of supply and their interdependencies	12-30
	B. Intersectoral relationships	31-32
	C. Sectoral examples	33-55
II.	The role of information technology and new business techniques in expanding service exports of developing countries	56-72
	A. Information technology	56-69
	B. New business techniques	70-72
III.	Strategies to expand services exports	73
	A. Action at the national level to enhance capacity and improve competitiveness	74-82
	B. Action at the multilateral level	83-93
IV.	Policy recommendations	94-97

INTRODUCTION

1. As recognized at UNCTAD IX, the ability of developing countries to integrate successfully into the global trading system will depend, as regards services, both upon their ability to strengthen their capacity to produce internationally competitive services and upon the extent of liberalization in the services sectors of export interest to them.

2. At its second session, the Commission had before it the recommendations of the Expert Meeting on Strengthening Capacity and Expanding Exports of Developing Countries in the Health Services Sector (TD/B/COM.1/7) to the effect that export strategies should make use of all modes of supply and take full advantage of the possibilities offered by information technology and new business techniques, and it decided to include an item on this topic in the provisional agenda for its third session. The examination of health and tourism services by expert meetings convened pursuant to UNCTAD IX (and the documentation prepared for the Expert Meeting on Strengthening Capacities in Developing Countries to Develop the Environmental Services Sector) (TD/B/COM.1/EM.7/2) indicated a number of challenges and opportunities for developing economies in increasing their supply capacities and expanding their trade in these sectors. This report seeks to determine whether some of these challenges and opportunities might also be present in other services sectors. A further question is whether advances in information technology which are dramatically stimulating trade in services can provide export opportunities for developing countries.

3. Given the rapid advances in telecommunications and information technology, along with the possibilities for further liberalization of trade and investment regimes under the General Agreement on Trade in Services (GATS), as well as in the context of regional and subregional agreements, services will lead the next stage of globalization. The structure of the GATS, its positive list approach to commitments on market access and national treatment, and Articles IV and XIX of the Agreement in principle enable developing countries to liberalize their services sectors progressively and to seek reciprocal access concessions in sectors of interest to them.

4. A new round of services negotiations will take place in the year 2000 under the GATS. GATS Article XIX provides that these will be preceded by an "overall assessment" which will establish the negotiating problems. Developing countries will need to identify sectors of potential export or other commercial interest and candidates for liberalization. Careful attention must be paid to this process, because services trade policy will determine what kind of services sectors will develop as national sectors - whether knowledge-intensive or labour-intensive - determining to a large extent countries' future investment structures and, thus, their long-term economic growth paths.

I. EXPANSION OF TRADE IN SPECIFIC SECTORS AND THE ROLE OF MODES OF SUPPLY

5. For developing countries, the internationalization of services is creating opportunities for expanding into new exports, in particular through long-distance service exports and the attraction of FDI. Opportunities in services trade have expanded as a result of several specific global trends: (a) information technologies, coupled with telecommunications, have made more services tradable on a cross-border basis; (b) information technologies are also supporting the unbundling of production and consumption, allowing for more specialized producer service inputs; (c) organizations in both goods and services production are externalizing or outsourcing their non-core producer service inputs to increase their competitiveness, creating new producer service opportunities.

6. Developing country service firms, mostly SMEs, face competition from large service multinationals with massive financial strength, access to the latest technology, worldwide networks, and sophisticated information technology infrastructure. Customer demand is resulting in the bundling of complementary

services through various forms of strategic alliance. In addition, customer demand for quality assurance and predictability has led to an increase in various forms of integrated global delivery networks (e.g. franchise chains, multi-site management companies in such areas as managed health care, computer reservation systems, global distribution systems).

7. Developing countries' traditional export interest has been in tourism, transport and labour movement. However, private sector service firms in developing countries report a wide range of export activity, especially when the supply of services to local foreign companies is included. Also important is the rapidly expanding South-South services trade.[1] One of the reasons for the low visibility of developing countries' services sector is that many commercial services are provided by the public sector. Involving the private sector in commercial services and externalization would assist in building competitive capacity for export of services.

8. Regional trade agreements related to services are likely to influence future multilateral efforts to improve market access in services. The effective inclusion of services within sub regional agreements among developing countries will be the key to their success. Such agreements among developing countries are also supporting growth in services exports through liberalization of market access and national treatment within the region and by creating economies of scale and scope, building competitiveness, upgrading skills and encouraging alliances among developing country service firms.

9. Although scope for expansion exists in the above-mentioned traditional sectors, the most dynamic component of commercial services is "other commercial services" such as finance, construction, computer and information and communications services (see table 2 in the statistical annex). Examples of niche opportunities include providing such services as: low-cost professional services (e.g. architecture, consulting engineering, legal research, market research); professional services linked to emerging concerns (e.g. sustainable design, forensic accounting); technical assistance for other developing economies linked to experience with commonly used, low-tech and medium-tech production processes (e.g. industrial engineering, industrial design, R&D); back office operations with higher added value than basic data entry (e.g. software programming,data capture and repair, adjudication of claims, management of electronic medical records); and services that leverage cultural or linguistic strengths (e.g. provision of multilingual offshore call centre services). Niche opportunities, however, change rapidly, driven in part by technological changes. This requires a capacity for prompt and rapid adaptation to new market circumstances. The once fast-growing demand for courier services, for example, is being replaced by inexpensive electronic document transmission (especially now that electronic signatures are becoming legally recognized).

10. In order to take further advantage of trade liberalization opportunities and thrive in an increasingly competitive global services environment, developing country service firms will need opportunities to continuously upskill and keep current with technical and professional advances (now much easier if they have cost-efficient access to the Internet), as well as to meet and exceed international service quality standards and incorporate information technology into the provision of their services. Expansion of services exports from developing countries depends not only on national capabilities but also on the quality of the telecommunications infrastructure in place and on emerging market opportunities. Success requires a world class telecommunication infrastructure, and the ability to move natural persons temporarily, including on business travel, to foreign markets unimpeded by visa restrictions, a sophisticated array of financing support, and access to appropriately skilled staff.

11. The overall image of the providing country (security, level of education, attitude of the population), as well as the quality and safety of the service being exported (reliable services, efficient and safe airlines, adequate tourist facilities) are essential components of the capacity of a country to export.

Initiatives by Governments and the private sector to disseminate information on services from developing countries as well as cultural values and consumer patterns and life styles of developing countries help to shape consumer preference for their products. This requires an expansion of the capacity of audiovisual services in developing countries.

A. Modes of supply and their interdependencies

12. The GATS is based on the "four modes of supply" of trade in services: cross-border, consumption abroad, commercial presence, and the movement of natural persons (see table 4 in the statistical annex on the type of commitments made under each sector and each mode). What has been defined as world trade in commercial services in balance-of-payments statistics corresponds, in fact, to trade conducted under modes 1 and 2. This amounted to $1,260 billion in 1996, which represented one-fifth of world trade. The definition of trade in services not only takes into account the physical reality of the supply of services to export markets, but also reflects the legal situation in that each of the modes corresponds to sets of legislation in separate policy areas, i.e. communications, investment, immigration, etc. Since barriers to foreign entry are usually incorporated into domestic legislation which includes both quantitative and qualitative measures, improvement in market access conditions usually requires legislative reform. Services sectors are regulated as a result of concerns relating to the provision of universal services, consumer protection, prudential matters and economy-wide externalities. As a result of the sensitive character of many services sectors, Governments control the supply of services ex ante rather than on an ex post basis. This contributes to the complexities of expansion of exports and promotion of trade liberalization.

13. The process of liberalization under the GATS is thus a function of the willingness of Governments to enter into multilateral commitments in these different policy areas, causing irregular and selective liberalization by mode which has also constrained the choices of service exporters in configuring and delivering services. One type of market access commitment (e.g. on the establishment of firms or alternatively on the movement of service providers as natural persons) could have different impacts depending on the dominant way of supplying services to foreign markets in a particular sector.

14. The main emphasis under the GATS has so far been placed on improving the market access conditions for establishment of commercial presence. This mode has been given preference by developing countries in order to encourage FDI, given that, with appropriate limitations and performance requirements, (employment requirements, local content requirements, export performance requirements, transfer of technology, training), both of which are permitted under GATS, commercial presence could contribute to building of domestic capacity and expansion of services exports. It also allows for more effective macroeconomic management and supervisory and regulatory control. Most developing countries have not made use of the possibility of imposing conditions of access (e.g. performance requirements) on foreign services and service suppliers, provided for under Article XIX.2. In granting further access to their markets, developing countries need to make full use of these capacity building conditions to ensure expansion of services exports.

15. Linkages exist among the four modes of supply in relation to expansion of services exports. For example, contract work in other economies (mode 4) is often used to build domestic capacity by encouraging professionals to take short-term assignments in economies where skills are more highly specialized and in-service training is available. Returning professionals with enhanced skills can then launch cross-border exports or meet foreign visitors' service expectations more successfully. Business travel (mode 4) is also used to complement cross-border supply (mode 1) in order to meet customer needs for personal contact. Similarly, mode 3 is often used to build capacity for mode 2 or mode 1 by leveraging soft technology transfer. In addition, by attracting targeted foreign direct investment in areas such as software customization or health facilities

management, developing countries can build a reputation for quality that can be translated into cross-border supply.

16. The concepts underlying the definition of trade in services have provided a framework where liberalization by developing countries with respect to supply of services through investment and cross-border movement (mainly that falling into the category of what is now termed "electronic commerce") can be traded off for advantages with respect to other modes of supply (e.g. movement of natural persons) or other advantages under the GATS or with respect to market access for trade in goods. Initiatives for separate agreements with respect to individual modes of supply (e.g. MAI (commercial presence), Ministerial Declaration on Electronic Commerce (cross-border supply)) should be viewed in the context of the balance of rights and obligations of the GATS.

17. *Cross-border supply (mode 1).* Cross-border trade has been growing increasingly as a result of the development of telecommunication networks, advances in information technology and the advent of the Internet/electronic commerce. New technologies are expected to further boost such trade in services, even in areas where it was considered technically infeasible at the time of the Uruguay Round negotiations. Only half or less of the commitments provide for completely free market access in cross-border trade; sometimes this was related to technical infeasibility.

18. Information technology is supporting intermodal substitution; the potential to provide services electronically cross-border could reduce dependence on either commercial presence (mode 3) or movement of natural persons (mode 4). Any information that can be digitized can be manipulated at a distance, and real-time Internet technologies allow for on-line chat facilities and inexpensive video conferencing. Increasingly, service exporters are using mode 1 for intrafirm provision of services and electronic communication with customers, strategic partners or (in the case of commercial presence) headquarters, regardless of the ultimate mode of supply of services. Granting market access under this mode would entail both inflow and outflow of capital related to the provision of the service, e.g. financial services.

19. It should be noted, however, that cross-border trade also relates to transportation services, which remain subject to a relatively high degree of restriction. Air transport sector traffic rights are excluded from the GATS disciplines (although the Annex on Air Transport Services will be reviewed next year), and the post-Uruguay Round negotiations on maritime transport failed as a result of problems in major countries, whilst the liberalization of land transport has proved difficult, even in the context of regional agreements.[2]

20. *Consumption abroad (mode 2)* Generally speaking, market access is freest for consumers who choose to purchase services abroad (although some restrictions subsist on payments and transfers). This is an important way of exporting services, particularly medical, tourism, transport and education services. Though trade is not directly restricted, it is not necessarily barrier-free: requirements in other service sectors, e.g. non-portability of medical insurance, could limit trade in related sectors.

21. Travel of individual consumers to the export market as tourists continues to be the primary subset of this mode of supply, followed by the training abroad of students or executives. Recent refinements in real-time Internet interaction, however, are leading to the substitution of cross-border distance training for in-person training. Sales of services to foreign firms present in developing country markets are also mode 2 exports (provided that the foreigners are majority owners) and can often be an excellent low-cost way for service providers to gain export experience and for economies to strengthen local service delivery capacity.

22. *Commercial presence (mode 3).* As noted above, commercial presence is the mode of supply most frequently bound in the GATS, reflecting the desire of

countries to attract investment in order to stimulate technology transfer, including management know-how, create employment and reduce foreign exchange payments for imported services. Many countries have provided for qualified access, i.e. have inscribed limitations in their market access and national treatment commitments on commercial presence, particularly measures defined in Article XVI, where requirements for a certain type of legal form for establishment and limitations on foreign capital participation were frequently cited. Furthermore, economic needs tests have also been mentioned, though by a rather limited number of countries.

23. Under the GATS, sales and purchases by foreign firms to and from consumers and producers in host countries constitute "trade" in services. In 1996, services represented three-fifths of FDI flows (total FDI flows amounted to $350 billion) and half of the global stock of FDI (total stock amounted to $3.2 trillion). With an estimated $7 trillion in global sales in 1995 - the value of goods and services produced by some 280,000 foreign affiliates of TNCs - international production outweighs exports as the dominant mode of servicing foreign markets for both goods and services.[3]

24. There has been a perception that many developing countries are not in a position to benefit from market access opportunities in respect of commercial presence, given the heavy costs of establishment; however, there are already some examples of developing country service multinationals in sectors such as hotels, retailing, and engineering and construction. Moreover, mode 3 liberalization commitments were made at a time when Internet communications and electronic commerce were only beginning to develop. The need for commercial presence could be reduced as a result of electronically facilitated cross-border trade (mode 1) via the Internet. This could lead to demands by foreign firms to seek a right of "non-establishment" which may affect the benefits from transfer of know-how achieved through commercial presence (e.g. as provided for in NAFTA).

25. *Movement of natural persons (mode 4)*. Broadly speaking, liberalization under this mode has been limited to horizontal commitments on the temporary movement of management personnel and specialists linked to commercial presence. A few countries have also made sectoral and category-specific commitments, but significant limitations are attached to such commitments (e.g. they are stay-limited to three months in any twelve-month period and subject to economic needs tests and recognition of qualification and licensing requirements). Lack of specificity in terms of sectors and occupational categories is a major limitation to predictability of market access.

26. The GATS rests on the concept of symmetry in the obligations as between the movement of capital (mode 3) and movement of labour (mode 4).[4] Mode 4 is an important mode of supply of services for developing countries, given their comparative advantage in labour-intensive services. The level of remittances is estimated at $30 billion globally, but even this figure understates the importance of the movement of persons for developing countries. Barriers to this mode, notably strict and erratically administrated visa requirements, licensing requirements and economic needs tests, prevent developing countries' technicians and businessmen from participating in a variety of activities essential to the penetration of world markets for services.

27. As noted, the principal limitation on access in this mode is the economic needs test (ENT). The test implies that the relevant government agency, often at the subfederal level, would grant market access depending on its assessment of the economic needs of the population or their demand for or their capacity to supply such services. The relevant conditions may be qualitative or quantitative, taking into account the local market conditions and availability of the local service suppliers, the characteristics of the population or any other criteria, but they are frequently not specified in the schedule. Because of its discretionary nature (especially where criteria are not clearly specified), ENTs represent a major barrier to trade in services and leave considerable uncertainty as to the level of market access commitment. A

commitment made subject to an economic needs test provides no guarantee of access; its economic and legal value is minimal. ENTs detract from the potential contribution of the GATS to facilitating the movement of persons associated with the globalization process. Since ENTs are invoked by countries in many service sectors and also in the commercial presence mode of supply, scheduling specific criteria for their application and eventually their removal, particularly with respect to clearly identifiable categories of professions or trades, would be central to future efforts to liberalize trade in services.

28. Most countries allow entry of highly skilled personnel as a means of meeting labour shortages to ensure that economic growth is not impeded by lack of skilled personnel or as a means of improving access to world intellectual resources and knowledge. A global market now exists for skilled personnel. As demonstrated in GATS commitments on intracorporate transferees (e.g. managers, executives, or specialists possessing advanced levels of expertise), the movement of persons is closely related to the movement of capital.[5] The draft multilateral agreement on investment (MAI) also provides for the temporary entry, stay and work of investors and key personnel (e.g. an executive, manager or specialist who is essential to an enterprise). Temporary entry and stay cannot be denied for reasons relating to the labour market, other economic needs tests or numerical restrictions in national laws and regulations.

29. There nevertheless exists a contradiction between the desire to attract or allow the entry of skilled labour and the desire to protect jobs for locals, with a consequent lack of constructive dialogue on temporary movement of all categories of natural persons. The specific commitments on the natural persons mode of supply demonstrate that few countries have bound their existing immigration laws and regulation; there is therefore considerable margin for improving market access through this mode of supply without modifying the relevant legislation.[6]

30. The ability of persons to supply services in export markets is also affected by the lack of recognition of professional qualifications and licensing requirements. Under GATS Article VI.4 (domestic regulation), negotiations are near completion on disciplines to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures in accountancy do not constitute unnecessary barriers to trade. These requirements have to meet the test of "necessity", that is they should not be more burdensome than necessary to ensure legitimate objectives, e.g. the quality of the service. This work is particularly important, in that an effort has been made to distinguish between Article VI measures covered by the disciplines and Articles XVI (market access) and XVII (national treatment) which could be taken up in the next round of negotiations. Moreover, the disciplines will help facilitate effective market access for professionals to supply services.[7]

B. Intersectoral relationships

31. Intersectoral relationships are also important in the context of liberalization under the GATS. A potential constraint in the present approach to liberalization in the GATS relates to the uneven liberalization commitments or anti-competitive practices in different sectors. For example, tourism operations may be competitively designed but lose market share due to the pricing practices of monopoly transportation providers bringing tourists to their markets. Export opportunities in the health services sector will be constrained if health insurance policies do not cover out-of-area provision of services or if common standards are not developed for electronic medical records.

32. Production and access for goods and services are also often linked. For example, there are linkages between the supply of services such as consultancy engineering services and the subsequent export of capital goods; in the provision of an integrated package of goods and services, as in the case of export of environmental goods and services; and in the export of maintenance services following the supply of goods. The latter is particularly relevant for high-

technology goods where specialized training and maintenance can be provided by the temporary movement of persons or via telematic services. In addition, the need for customization of goods and services has increased the complementary role of producer services. Moreover, transport and distribution services are essential for trade in any good. Together, these features increase the importance of coherent policy and regulatory frameworks for both the different service sectors and the interlinkages between the goods and service sectors.

C. Sectoral examples

33. Modal and sectoral interdependencies, possibilities for expansion of exports and barriers to such expansion are illustrated below for five sectors: computer services, back office services, environmental services, health care services, and tourism.

34. *Computer services.* The global 1998 market for computer-related services (other than software and Internet-related services) is estimated to be in excess of US$ 243 billion, of which approximately US$ 71.2 billion will be for outsourcing of various information technology (IT) functions. On the software side (not including the specific, time-limited demand of approximately US$ 600 billion for year 2000 compliance programming), the market for customized software alone is growing at more than 20 per cent annually and is projected to reach $250 billion by the year 2000.

35. Growth in demand for computer services has been limited by: (a) lack of the sophistication of customers' installed computer hardware base; and (b) the weakness of the supporting telecommunications infrastructure. However, the falling cost of hardware is allowing businesses in areas with previous low IT adoption rates to leapfrog and acquire relatively inexpensive but powerful systems. In addition, current limitations in wired telecommunications systems may soon be addressed by cost-competitive wireless and satellite infrastructure as bandwidth pricing falls, as well as by emerging competition from Internet telephony. The main barriers at present for developing country exporters are lack of international reputation in the export market, potential lack of state-of-the-art equipment and cost-competitive telecommunication links, and a lack of rigorously enforced intellectual property rights legislation (opening the door for copyright infringement and similar violations). Software producers can join with other firms through strategic alliances, joint marketing and exclusive dealing arrangements, and joint research ventures to produce solutions sought by clients. Though such alliances reduce the total number of potential suppliers available, and may result in restrictive practices.[8]

36. Opportunities for computer services exports can be taken up through a combination of all four modes of supply. Some developing countries are already quite competitive in cross-border on-line support and technical assistance services, as well as in software customization, database management, and Website design and management. More extensive computer consultancy and technical support also require the travel of skilled staff to the customers' home market in order to be most effective. As part of a strategy to build international reputation and domestic capacity, some developing countries are also providing training for technicians from other developing countries, either in their own markets ("consumption abroad") or in the target market. Franchising of successful developing country operations in areas like Internet access provision or data capture is a potential growth area but has not yet been exploited.

37. *Back office services.* Service opportunities for developing countries are expanding in cross-border supply of (long-distance) back office services. Starting with simple data entry services in the 1980s, the supply of back office services from developing countries has grown to include electronic publishing, Website design and management, customer call centres, medical records management, hotel reservations, credit card authorizations, remote secretarial services, mailing list management, technical on-line support, indexing and abstracting services, research and technical writing, and technical transcription. In

addition, manufacturers are increasingly contracting out product design, logistics management, research and development, and customer service support to foreign offshore service suppliers.

38. Based on OECD projections[9] and factoring in the demand for year 2000 computer code conversion, the 1998 global market for back office services that could be provided by developing countries amounts to approximately US$ 438 billion. This figure is equivalent to at least 20 per cent of developing countries' total 1996 exports and 2.8 times developing countries' 1996 "other services" exports. For example, world demand for medical transcription is approximately US$ 200 million, while that for legal transcription is US$ 400 million and for year 2000 compliance between US$ 300 and 600 billion. United States corporations alone spend US$ 50 billion a year on information processing, at least 20 per cent of which could be provided in a back office environment.

39. The types of industries where captive back office operations in developing countries are becoming common include airlines, brokerage firms, credit card processing companies, financial institutions, insurance companies, marketing businesses, and any other businesses with high-volume transactions. Such captives are an example of services trade through commercial presence; however, an increasing number of them are successfully diversifying away from supplying their parent company in order to service corporate clients in a range of other countries. Most services demand is for business-to-business (producer) services, rather than consumer services. Local economic multiplier effects are much broader in scope in the case of back office operations than in the case of temporary migration to foreign markets.

40. *Environmental services.* The world market for environmental services is approximately 65 per cent of the global environmental industry (estimated at US$ 452 billion), making present demand in excess of US$ 250 billion. The focus on services provision is shifting from end-of-pipe clean-up to environmentally sound technologies (ESTs) and from regulatory compliance to resource productivity. In 1996 developing countries generated only 13 per cent of total revenues.[10] Technical expertise, price, quality and reliability of services represent the key competitive factors in the environmental industry, though, geographical and cultural proximity and the ability to offer a multidisciplinary package also contribute to a company's competitiveness. Strategies to create or expand business opportunities may include: (i) offering an integrated package of goods and services or multi-disciplinary services; (ii) offering specialized services; (iii) targeting regional markets; and (iv) establishing links with foreign companies.

41. Experience shows that partnerships with developed country firms can be a means of upgrading developing country firms' knowledge, expertise and technology availability. The "build-operate-transfer" system is widely applied in the environmental sector, especially in the water and waste segments. The majority of export opportunities involve Governments and international funding agencies as funders or clients. Developing country exporters may need to partner with local firms in order to qualify for such procurement opportunities.

42. Limitations on the expansion of business opportunities for developing country firms may be identified as relating to: (i) demand conditions (e.g. insufficient financial resources to pay for environmental goods and services; uncertainty related to payment; lack of a reliable legal system to guarantee compliance with the commitments undertaken by the parties); (ii) supply-side considerations (e.g. lack of skilled personnel and lack of financial resources for training); (iii) policy (e.g. preference for local firms; lack of government support in terms of business development, finance and tied aid); (iv) legislation (e.g. limitations on the movement of natural persons, ownership and control; over-bureaucratic documentation, testing procedures and information-gathering requirements; liability).

43. While environmental services may themselves be traded without much

restriction, lack of market access for associated construction services, professional services (consulting engineering, design) and analytical services can create barriers to trade. Also, customers increasingly expect environmental services to be bundled with the supporting technologies, which may themselves face export barriers due to regulatory restrictions linked to obsolete technologies.

44. Developing country firms which have developed the expertise to address specific environmental problems may offer their services to other countries which experience the same problems. Examples may include the management of rain forests, environmental management in resource-extraction industries, the preservation of biologically rich eco-systems, and the reduction of air pollution in mega cities. A number of niche markets can be identified, for example processing and pre-processing of domestic and industrial wastes, water and wastewater development in response to drought and flooding problems, land-use planning, and a range of support services.

45. The modes of supply most frequently used to deliver environmental services are commercial presence and the presence of natural persons. Information technology makes it possible to use the cross-border mode of supply for partial or full supply of some services, mainly support services, for example analysis of the environmental legislation of the host country. This shortens the time needed to be spent in the country where the service has to be delivered, with the consequence that the service provider faces considerably fewer restrictions related to movement abroad. There seems to be limited scope for consumption abroad in this sector, with the exception of some education-related services.

46. *Health services.* Opportunities exist for developing countries through all four modes of supply provided that barriers relating to the following can be managed: perceived quality of health professionals available and standards of quality assurance in health care facilities; mutual recognition of professional credentials; non-portability of insurance coverage; lack of standards for electronic medical records; concerns about patient privacy and confidentiality in distance health care delivery; and difficulties in cross-jurisdictional malpractice liability.

47. The limits on competition in many service sectors resulting from equity, social, cultural and development considerations are clearly illustrated in the health service sector, where lives of individuals are at stake. The benefits that may accrue from the development of trading opportunities, e.g. remittances and temporary movement of health professions to provide services abroad resulting in upgrading of skills, must be weighed against the potential negative effects, e.g. brain drain and overspending on state-of-the-art technology for foreigners. As countries explore opportunities for trade in health services, a balance needs to be struck between regulations that promote trade and appropriate regulatory frameworks that support universal service provision and national health policy, for example in terms of equity and sustainability.

48. In cross-border delivery (telemedicine), skilled health professionals in developing countries have the potential to consult from a distance now that medical images, X-rays, MRIs, etc., can be digitized and transmitted via computer. Other distance delivery options include training and ongoing professional development for health care professionals, specialty back-up for health care workers in more remote communities, development and maintenance of interactive on-line health education databases, and remote medical records management.

49. With regard to consumption abroad, a number of developing countries are targeting "health tourism", and experience has shown that patients will travel abroad for specialized treatment involving advanced technology or particular medical approaches (such as traditional Chinese medicine), convalescent care, and lower-cost quality outpatient care. Liberalization in the framework of subregional agreements, can be effective. The European Union has also

participated in bilateral agreements with several developing countries to provide medical care where delivery capacity in Europe is constrained. Training of foreign health professionals, especially those from other developing economies, is another growth area.

50. Commercial presence is normally sought through joint ventures and local partnership arrangements so as to have access to certified and adequately trained local staff. Management contracts and licensing are becoming a preferred means of commercial establishment for hospital services. A significant characteristic of commercial presence in hospital operation is the involvement of management companies whose traditional business is outside health care services. Another trend is to contract non-health-related companies to carry out ancillary services. A further technique for penetrating foreign markets is through "managed care" services, which combine management and insurance. Such a system integrates in varying degrees the financing and delivery of medical care through contracts with selected physicians and hospitals and links with insurance companies to provide health care services. This indicates the blurring between many services sectors as a result of information technology and new business techniques.

51. Developing countries are estimated to supply 56 per cent of all migrating physicians. While demand is presently being satisfied primarily through the temporary migration of skilled professionals as individuals to markets where there is a shortage, future growth will probably occur through the temporary travel of employees of health care firms in developing countries. Examples of opportunities include on-site training and upskilling of professionals, consultation with health authorities (e.g. regarding AIDS prevention), nursing care for the elderly and for handicapped people or for patients suffering from drug or alcohol addictions, medical services in remote areas, and provision of disaster relief or battlefield medical services through contracts with inter-governmental organizations.

52. *Tourism services.*[12] Tourism has been a catalyst for growth in many developing countries. Export earnings (excluding fares) from tourism services between 1990 and 1995 grew globally at an average annual rate of 7.0 per cent. Growth constraints relate primarily to domestic factors (limited access to financing, lack of capacity to negotiate with tour operators, inadequate telecommunications or transportation infrastructure), externalities such as currency fluctuations or rising airline prices, or perceptions as to physical safety, the friendliness of the local population, the political stability of the country, and the value received for money spent. In addition, developing country tourism destinations are challenged to prevent "leakage"[13] and ensure equitable access to global distribution networks. Newer areas of growth include niche tourism development (e.g. eco-tourism, health tourism, incentive travel) and increased attention to the more lucrative areas of business tourism and international conventions.

53. Strategic global alliances are the new business technique being used in the air transport industry. These alliances aim at world coverage by pooling the networks of their members, through cost reductions and efficiency gains that can be achieved by the joint use of resources, by creating synergies and by providing "network value", i.e. the wider coverage of points serviced by the carrier and its partners without the need to physically expand operations. The main drawback of doing this is that the alliances can restrict competition and thus negate some of these benefits, particularly if they collectively achieve a dominant position on given routes.

54. Global distribution systems (GDSs), which had their origin in the computer reservation systems (CRSs) developed by large air carriers, now offer a variety of services such as storage of information on a world wide basis, the issuance of tickets, and marketing or sale of products and services, e.g. land services supplied to tourists, package tours, and hotel and vehicle rentals. GDSs have also minimized their costs and reduced the need for direct commercial presence by entering into strategic alliances or mergers in the most important markets.

They have increased the efficiency of travel agents and become the main marketing and trading tool of international tourism, as well as a major source of income for the carriers which own them. They are, however, regarded as a major barrier to market entry by developing countries, mainly because they are controlled by major carriers that set unfavourable access conditions for competitors, e.g. prohibitively high access costs for SMEs.

55. While some East Asian developing countries have participated in the establishment of a major GDS (Abacus, complemented by the strategic alliance with Worldspan), other developing countries have not been able to, and these countries have faced difficulties in selling their tourism services. The United States, the European Union and Canada have issued regulations to control the anti-competitive behaviour of GDSs and ensure their neutrality, and ICAO has issued a non-binding code, but these have not been sufficient to eradicate such behaviour completely. Few commitments have been made on market access to CRSs under GATS, and these do not address their anti-competitive behaviour. A reference paper similar to the one on basic telecommunications could provide for competitive safeguards and be included in the GATS schedules of commitments as additional commitments.

II. THE ROLE OF INFORMATION TECHNOLOGY AND NEW BUSINESS TECHNIQUES IN EXPANDING SERVICE EXPORTS OF DEVELOPING COUNTRIES

A. Information technology

56. Continuing innovations in information technology have revolutionized the trading environment for services. Computerized, globally networked systems are becoming a prerequisite for competitiveness. Not only do such systems support delivery of services at a distance, but they are also increasingly critical in marketing, reservations or sales, staff training, and the redesign of more traditional services such as tourism. For example, leisure tourists from developed markets now expect to be able to research tourism destinations on-line, make electronic reservations and travel on a "paperless" electronic ticket.

57. The development of electronic commerce (EC) has dramatically increased the relevance of the cross-border mode as a means of exporting services. The explosion in Internet use (the number of users is said to be doubling every year) has been achieved through the use of open, non-proprietary standards that exploit the existing communications network. The Internet will facilitate many professional and business services, health and education, travel and ticketing services, software, entertainment and financial services. The Internet allows commercial activities to be conducted without the heavy cost of establishing and maintaining physical stores and inventories and facilitates establishment of market interlinkages. EC will also have an important impact on government services. The barriers to Internet growth as an instrument of EC relate to lack of trust, uncertainty about the regulatory environment, access and logistical problems.[14]

58. The rapid expansion in electronically supported cross-border services trade, including back office services, can be significantly constrained by the stage of development and interconnectivity of telecommunications infrastructures. At present, there are over 800 million main telephone lines worldwide, supplemented by cellular networks and satellite communications.[15] But many developing countries still have a telephone density of less than 1.5 lines per 100 persons, and two billion people have never used a phone.[16]

59. Service exporters face both monopoly pricing for long-distance telephony connections and distance-based pricing that disadvantages developing countries further removed from lucrative developed markets. Economies with telecommunications infrastructure competition have on average five times more Internet hosts than economies without infrastructure competition, with connection charges of less than half. Experts predict that the current trend towards global commodity pricing of telecommunications services (e.g. bandwidth) will equalize

telecommunications costs much sooner than anyone imagines and thus make lower-wage developing economies very competitive providers of a range of information-technology-based services.

60. The Internet provides developing countries with the opportunity to obtain hitherto inaccessible and unaffordable information. The resulting transfer of know-how could stimulate expansion of exports of services from developing countries and assist in their integration into the world trading system. However, many developing countries suffer from inadequate infrastructure and information technology. Efforts need to be made to ensure that access of developing countries to transborder data flows is not constrained, as information constitutes an increasingly important factor of production.

61. Two essential infrastructural components are required for EC to be conducted, i.e. the necessary hardware and software, and access to communication networks. Opportunities offered by EC will be influenced by technological progress, as well as government policies. These will be crucial in determining whether and under what conditions service suppliers could take advantage of EC.[17] Moreover, since the Internet allows all goods and services which can be digitized to be transported, it blurs the distinction between goods and services and thus calls for effective cross-border regulatory supervision and monitoring. A second area of concern is that it would be difficult to determine where a transaction has actually taken place, raising the need to deal with jurisdictional issues. These challenges pose particular problems for developing countries, given that they have weak regulatory frameworks and lack enforcement capacity.

62. The main opportunity of electronic commerce in services is that it will permit persons in developing countries to offer their skills in world markets without their having to leave their own countries, thus benefiting from what has been termed low-cost/high-tech comparative advantage[18] and avoiding brain drain. The Internet will also permit them to advertise their services. In fact, it may dramatically reverse the scenario where the industrialized countries were seen to possess the comparative advantage in most services sectors.

63. Export opportunities for developing countries in long-distance labour-intensive services (e.g. computer and software services, including back office services) have been estimated to have the potential to double the total commercial services exports of developing countries from their 1993 level of $180 billion (See table 5 in the statistical annex).[19] The market for information technology services, which has an average growth rate of 8 per cent, offers important opportunities. The most significant market drivers are globalization, which has led to global skill shortages and outsourcing, as well as business re-engineering and enterprise resource planning as firms try to enhance their competitive advantage; European Monetary Union; the growth of the Internet; and the year 2000 (millennium problem).[20]

64. For financial and telecommunications services in particular, the consequences of the changes in information technology are likely to be important. Many financial transactions are already being done on-line, eliminating the need for intermediary personnel. Many financial firms may therefore prefer to provide certain services through the cross-border mode rather than through establishment. With regard to telecommunications, Internet phone and fax services are cheaper than conventional services, as they are able to make better use of bandwidth. Expanded use of these services would reduce revenues obtained from telecom services in developing countries.

65. Another important feature of EC concerns the opportunities it will open up for SMEs, which will now be able to tap into global markets for suppliers and customers. The virtual market space means that the size of a business is no longer an indicator of the geographical spread of its customers and activities. Some SMEs have already achieved a global start-up by setting up a Web site. For some products, such a site can build niche markets into mass markets. Moreover,

internal information used by a firm can be repackaged and made available to customers and the public to help build customer confidence and loyalty.[21]

66. A substantial range of transactions carried out through electronic commerce are already covered under the GATS. These include Internet services, products which can be delivered as digitized information flows (e.g. financial services; telecommunications, computer and computer software services; business, entertainment, postal and courier services; and air transport). The most relevant modes of supply are cross-border supply and consumption abroad. Liberalizing commitments in services sectors that are complementary to electronic commerce and all four modes of supply can contribute to the development of EC. It should be noted, however, that if supply through the cross-border mode is preferred to commercial presence, this could reduce the flow of FDI, transfer of technology and management techniques, and employment opportunities.

67. Certain provisions of the GATS relate to the facilitation of EC: (i) commitments on market access and national treatment in telecommunications services and regulatory principles in basic telecommunications provide for gradual liberalization of these services, as well as competitive safeguards; (ii) the GATS Annex on Telecommunications provides for access to and use of public telecommunications networks and services (when the services are included in the GATS schedule of the importing country concerned); it also provides for technical cooperation to strengthen developing countries' telecommunications infrastructure and to expand their telecommunications trade; (iii) Article IV contains provisions on strengthening domestic services capacity, efficiency and competitiveness (inter alia through access to technology) and the improvement of their access to distribution channels and information networks; and (iv) Article XIX.

68. For developing countries to benefit from the opportunities offered by electronic commerce, it is important that the provisions in Articles IV and XIX.2 and the provision on technical and financial cooperation in the Annex on Telecommunications are faithfully implemented. The Information Technology Agreement (ITA) removes a range of tariffs on information technology products essential to the infrastructure for electronic commerce and the Internet. Furthermore, although it will be difficult for Governments to restrict access to the Internet, many of the services provided over the Internet would be subject to domestic regulation to ensure quality and establish liability and for prudential reasons. GATS Article VI would apply to electronic commerce.

69. The cost of infrastructure for electronic commerce is an important barrier to export expansion. For countries presently without Internet access, priority attention to going on-line can make the difference between service exporters operating from a level playing field or being marginalized. International mechanisms to regulate and harmonize transborder legal questions are lacking, but whatever rules are adopted for the Internet, they would need to provide for competitive safeguards against the creation of monopolies that could otherwise emerge. Already Microsoft and Netscape are competing to monopolize the domain of information. Software producers are refining control programmes and developing surveillance platforms that enable them to block certain servers. Telecommunications standards are being concentrated in the hands of a small number of operators. In future Internet services could have tiered rates, whereby providers would create hierarchies of users and payers of premium prices would be guaranteed priority services. Such a development could put developing country users at a disadvantage.

B. New business techniques

70. New business techniques continue to evolve in support of designing new types of services and delivering existing services in more competitive ways so as to service customers in globalized markets, achieve operational economies of scale, and improve competitiveness through enhanced brand name recognition. New business techniques are also aimed at establishing closer contact between service

suppliers and consumers and industry end users and to the extent possible supplying them with a package of goods and services. Developing countries have to ensure that their service suppliers would make use of such techniques to avoid being marginalized.

71. Developing country service firms will increasingly find that they are able to be more competitive if they join one of the global networks. Network affiliation can provide them with an international reputation to leverage, R&D and the possibility to move more rapidly towards higher value-added products, training and soft technology transfer, and the opportunity for professional staff to transfer to network offices in other markets. On the other hand, they can join with like-minded firms from other developing countries to form global networks that compete with the established service multinationals in niche markets. As globalization of markets increases, it will become increasingly difficult for stand-alone service firms to succeed without some form of strategic alliance.

72. Strategic alliances, however, may also develop into market-spanning knowledge-based networks that can lead to the creation of *de facto* industry standards. To the extent that such networks supplant the role once played by a stable market leader in industrial development, their ability to shape product markets and set technological standards carries with it a potential to erect new entry barriers. This may have implications for national, regional and global market structures, as well as worldwide market contestability. Hence, the development of knowledge-based networks needs to be taken into consideration in the design and development of national and international competition policies.[22]

III. STRATEGIES TO EXPAND SERVICES EXPORTS

73. The scope for the expansion of developing countries' services exports can be enhanced by actions at the national level both to enhance capacity and to help national suppliers improve their competitiveness in response to new business techniques and possible anti-competitive practices. Measures in these areas are indicated below. In addition, action will be required at the multilateral level to facilitate the continued growth of services trade. Some suggestions are provided below in this regard.

A. Action at the national level to enhance capacity and improve competitiveness

74. *Human resource and technology capacity-building.* Increasing the level of education, particularly in new technologies, is a key element in improving competitiveness and attracting foreign investment. Government expenditure on education and research has to be increased and geared to the development of indigenous technological research to strengthen competitiveness and to adapt foreign technology to specific national conditions.

75. *Telecommunications infrastructure.* Accessibility via the "information superhighway" (including the Internet) is becoming the new international competitive arena for successful services exporting. Upgrading telecommunications infrastructure is key to exploiting cross-border trade opportunities. The recent agreement on liberalization in basic telecommunications and the ITA will provide support for such infrastructural improvements, as will innovative development strategies.

76. *Coherent domestic regulatory framework.* In order to expand services exports, there is a need for Governments to develop a coherent domestic regulatory framework for goods and services, trade and investment and to put in place incentives that enhance the competitiveness of service firms. These would need to deal, inter alia, with: (i) extending current tax incentives and duty waivers to service firms, particularly with regard to basic office equipment (e.g. computer hardware and software, fax machines, etc.); (ii) establishing appropriate performance measures for foreign commercial presence and the operation of global service delivery networks, such as local purchase of service inputs, export earnings, transfer of technology, staff training; (iii)

liberalizing the business structures available to service firms; and (iv) modernizing banking regulations and strengthening supervisory capacity.

77. *National services export strategy.* A coherent strategy for raising the profile of service industries and exports in the domestic economy is important so that services exports are seen as being vital to economic development. Initiatives like the Coordinated African Programme of Assistance on Services (CAPAS) are important in this respect and need to be reinforced and extended. Initiatives can be aimed at improving the quality of services and emphasizing the differences of these services as compared to those of their competitors. Commitment to international quality standards (such as ISO 9000) can be augmented by training in service quality and customer service, study tours abroad to visit leaders in service excellence, information for benchmarking one's own service against international standards, joint ventures with foreign firms known for high quality standards, or media exposure and resolution of service quality problems. National Bureaux of Standards could foster a "service" culture in both the public and the private sectors with a commitment to high service standards, with a needs assessment to identify the key barriers to improved service quality.

78. Government support to help SMEs to access new technologies and management techniques, including sophisticated marketing expertise, capacity to design differentiated products and export planning skills, can be facilitated by establishing an information support system to disseminate information on trade and business. Governments can also assist SMEs by promoting their exports, for example through partnering events to assist SMEs to form business alliances and partnerships and the development of linked data base systems to assist SMEs to discover the economic environment in each region, as well as to identify potential partners to increase business. Support can also be provided through training programmes on effective use of information technology, cultural aspects of services innovation, and the skills needed to negotiate and partner effectively in the context of business alliances. Support can also make use of a wide range of policy instruments such as exchange, trade, fiscal and credit policies; specific examples include direct subsidies, government procurement, tax incentives, and allowing movement of foreign specialists.

79. Plans for expanding services exports need to be integrated into overall national development planning and include strategies such as the following: (i) disseminating timely trade and business information to SMEs and different government bodies; (ii) featuring national service export capabilities on a national Website; (iii) publicizing service export success stories, including supplying service statistics and success stories for speeches by political leaders; (iv) expanding the coverage of service firms in exporters' directories; (v) uploading information on existing service exporters into partnering databases, including on the International Trade Centre UNCTAD/WTO's Services Exporting Homepage; (vi) identifying and developing regional market opportunities; (vii) negotiating mutual recognition agreements (MRAs) and terms for temporary entry of service providers and business persons with key target markets; and (viii) changing the regulatory framework relating to market entry, behaviour of firms and the establishment of monopolies.

80. *Financing for service firms.* Service firms are restricted in most developing countries to borrowing against personal assets rather than against corporate assets. Key financial institutions typically lend only to "eligible sectors" which do not include the majority of service industries. Service exporters need access to the following types of financing: overdraft facilities against accounts receivable, project financing, performance bonds and mobilization payment guarantees, corporate credit cards with levels sufficientfor international travel, and both leasing and loan options to finance office and computer equipment acquisition and upgrading.

81. *Measures to discipline anti-competitive behaviour.* Many markets for services are dominated by relatively few firms, and the trend in mergers, acquisitions and strategic alliances has exacerbated this situation. There is

a need to develop national competition rules as well as multilateral mechanisms to strengthen cooperation amongst competition authorities to deal with transfer pricing, exclusive dealing arrangements, alliances, mergers and acquisitions, and export cartels. To provide for competition safeguards, the example of the reference paper on basic telecommunication services could be followed in other services sectors.

82. *Service industry associations.* Governments can support service exporters by strengthening their national service industry associations as agents to establish and enforce codes of conduct and standards for professional continuing education. Associations can also link members to potential partners in target export markets and serve as a coherent voice for the needs of the service industry (including exporters) with government. In addition, Governments may wish to support the formation of a coalition of service industries linked to other such coalitions.

B. Action at the multilateral level

83. *Collaborative efforts.* To facilitate the continued growth of services trade, three areas require collaborative efforts among member Governments: (i) services trade statistics, including common agreements as to the definition of industries such as tourism and environmental services, accompanied by the development of satellite accounts as needed; (ii) development of international standards for electronic service delivery, including interconnectivity, and analysis of the impact of developments in intellectual property rights protection on access to databases; (iii) creation of effective access to mutual recognition agreements relating to professional qualifications, and agreement on the cross-border handling of professional liability issues that currently constrict the distance delivery of services such as telemedicine.

84. *International financial institutions.* In their role of supporting economic development, international financial institutions can facilitate the expansion of services trade in at least two ways: (i) fast-tracking improvements to the telecommunications and Internet infrastructure in developing countries, including through help with privatizing state telecoms, attracting foreign investment, and establishing an independent regulator; (ii) instituting "set asides" by intergovernmental organizations and international financial institutions of a percentage of services contract work for service firms from developing countries.

85. *Actions in the context of GATS.* Since the completion of the Uruguay Round, developing countries have undertaken major commitments autonomously and as a result of the extended negotiations on financial and telecommunication services without obtaining reciprocal benefits. Thus, there may be a need to restore the overall balance of rights and obligations in terms of sectors and modes of supply, just as there is a need to provide credit for post-Uruguay Round liberalization by developing countries.

86. Article XIX.3 of the GATS provides that, for each round, negotiating guidelines should be established, for the purposes of which an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS, including Article IV.1, will be carried out. The assessment should contribute to the knowledge base necessary to take decisions on liberalization. In this regard, services statistics need to be improved.

87. *GATS assessment.* As Article IV.1 provisions are accorded through negotiated specific commitments, the relative imbalance in negotiating leverage between developed and developing countries has made it difficult for developing countries to derive the expected benefits from these provisions. This matter could be pursued in the context of the assessment and the next round of multilateral negotiations on trade in services. Implementation of Article IV.1(b) of the GATS would require restoring symmetry between the four modes of supply and ensuring that services of export interest to developing countries are included in the schedules of commitments of developed countries. The impact of

electronic commerce and new technologies on trade in services and expansion of their capacity to export through the cross-border mode (mode 1) and the impact on national policy objectives could be evaluated. In this regard, it would be useful to undertake an assessment of the extent of access provided for developing countries to technology, distribution channels and information networks in the schedules of commitments of developed countries. One possibility would be to establish specific measures and benchmarks to grant developing countries preferential access to networks and new technologies. In relation to the review of the Air Transport Annex, the impact of new business techniques on air transport needs to be assessed.

88. In relation to the cross-border supply mode (mode 1), an accompanying regulatory framework, competition policy, technical assistance and an infrastructure building mechanism would need to be provided for prior to further liberalization of this mode and electronic commerce. In improving their commitments on the cross-border mode, developing countries would need to link commercial presence to the cross-border mode to ensure implementation of Article IV provisions and to deal effectively with issues relating to liability, jurisdiction and quality control, as well as transfer of know-how and imposition of performance requirements.

89. As regards commercial presence (mode 3), it would be useful to gather information on the extent to which investment in developing countries has increased as a result of their granting security and predictability through their market access commitments. An inventory of anti-competitive practices could provide useful guidance for future negotiations. On movement of natural persons, a comparison could be made in terms of what access is currently granted in the national legislation of developed countries in respect of temporary movement of service suppliers and what has been bound in the schedules of specific commitments, and an attempt could be made to identify the criteria used in ENTs. The impact of MRAs on exports of developing countries in this mode also requires attention. Given the importance of information as a production factor, an examination is needed of whether developed countries' contact points have provided relevant market information to developing countries service exporters which has assisted them in developing and implementing export strategies.

90. *GATS guidelines*. The required negotiating guidelines should address issues which have arisen in the implementation of the GATS. Effective implementation of Article IV to ensure strengthening of competitiveness of services sectors of developing countries could be achieved through the transfer of commercially viable technology on preferential terms, particularly in the area of telecommunications and information technology; this would involve the full implementation of the Annex on Telecommunications (i.e. the provisions on technical and financial assistance). Provision could be made for developed countries to grant incentives to their firms and institutions for the purpose of encouraging transfer of technology.

91. Guidelines need to take into account the fact that prior to further liberalization of the cross-border mode, developing countries would require technical and financial assistance for infrastructure building, as well as for setting in place an accompanying regulatory framework and competition policy. To ensure the implementation of the objectives of Article IV, developing countries would need to link market access in the cross-border mode to establishment of commercial presence. Such a linkage would enable them to tackle effectively issues relating to liability, jurisdiction and consumer protection, and to establish an appropriate environment for access, including, for example, performance requirements.

92. As regards mode 4, a list could be drawn up for categories of persons for which countries would agree to abolish ENTs, and criteria for the application of ENTs for categories not covered by the list could be established. Consideration could also be given to binding existing access contained in immigration legislation and to the adoption of an agreement for liberalization

of access for sector-specific categories of persons, coupled with the possibility of abolishing those requirements which prohibit developing countries from providing professional services. A mechanism could be establishedto promote and monitor effective access of developing countries to MRAs in relation to all professional services.

93. Other areas which could be addressed by the negotiating guidelines to be established under Article XIX.3 relate to accelerating work on emergency safeguard measures to enable countries to expand market access commitments in all modes and sectors, subjecting subsidies of developed countries to disciplines in the context of negotiations under Article XV, strengthening Article IX by ensuring that importing and exporting countries would control abuse of dominant position, and establishing a notification requirement for restrictive business practices. Reference papers could be negotiated to ensure competition safeguards and address private sector practices, for example in relation to GDSs and CRSs.

IV. POLICY RECOMMENDATIONS

94. The analysis in the preceding chapters of this paper give rise to the policy recommendations set out below for the consideration of Member States.

A. Addressed to national Governments

95. The following policy initiatives could be taken at the national level: (i) identifying barriers to services exports, for example by circulating questionnaires to the private sector with respect to problems in obtaining visas and work permits; (ii) strengthening producer services, inter alia through externalization and liberalization of market access; (iii) adopting an enterprise structure for the export of labour-intensive services aimed at providing a package of services, linking the duration of the stay of temporary personnel to a specific project and clearly defined skills; (iv) preparing inventories of the occupation of nationals working abroad in order to identify areas of comparative advantage and where requests could be made in the next round of GATS negotiations; and (v) accelerating the inclusion of services and their liberalization in the context of subregional arrangements and strengthening cooperative efforts through such arrangements to prepare for the next round of GATS negotiations.

B. Addressed to the international community

96. The following initiatives could be taken by the international community: (i) ensuring effective implementation of Article IV and Article XIX of the GATS in the context of the development of the guidelines for GATS negotiations; (ii) preparing a schedule of specific criteria for the application of economic needs tests and eventually their removal, particularly with respect to clearly identifiable categories of professions, (iii) creating the conditions conducive to the transfer of technology from firms in developed countries to firms in developing countries, as well as the diffusion to the developing countries of technologies in the public domain; (iv) assisting the UNCTAD and WTO secretariats in improving services statistics to meet the needs of policy-makers and trade negotiators for the next round of GATS negotiations.

C. Addressed to UNCTAD

97. UNCTAD could be requested to: (i) convene an expert meeting on the impact of electronic commerce on services trade of developing countries and on the type of economic and infrastructural policies which would provide elements for an export strategy in the area of long-distance services/business services; (ii) undertake a systematic analysis of immigration laws to identify their occupational specificity in order to assist developing countries to identify possible opportunities for expanding trade and facilitate the preparation of requests in the GATS negotiations; (iii) make an inventory of the most prevalent anti-competitive practices in the services sectors; and (iv) continue work on

the MAST database (Measures Affecting Service Trade).

Endnotes

1. Many service exporters operate without any formal support from national export promotion agencies. Their low visibility is exacerbated by inadequate services trade statistics, so that the contribution of service sector firms to developing country economies continues to be underestimated. As a result, public resources are likely to be directed towards other sectors that are seen as more critical to economic development, without due recognition of the fact that the competitiveness of these sectors depends on high-quality services inputs.

2. Geza Feketekuty, "Setting the Agenda for Services 2000: the Next Round of Negotiations on Trade in Services", WTO Series, Graduate Institute of International Studies, Geneva 1998.

3. *World Investment Report 1997*, UNCTAD/ITE/IIT/5.

4. See *Trade and Development Report 1994*, Supplement.

5. Saskia Sassen, *The mobility of Labour and Capital*, Cambridge University Press, 1988. Robyn Iredale, "Analysis of factors generating international migration", paper presented to the Technical Symposium on International Migration and Development, July 1998. K. Malhotra, "Globalisation and the economic growth paradigm: Some implications for labour migration and mobility, paper presented at the Conference on Labour Migration and Mobility in China and Asia, Asia Pacific Institute, Chinese Academy of Social Sciences, Beijing, 17-19 April 1998. C. W. Stahl, "Explaining international migration in global population movements and their implications for Australia, Australian Government Publishing Service, 1993.

6. Several empirical studies highlight the benefits from movement of persons for the receiving countries, particularly in terms of enhanced international competitiveness, technological inventiveness, education and training savings. In some cases, annual gains can easily exceed existing worldwide GNP generated in the presence of labour mobility restrictions. In a study by Bob Hamilton and John Whalley , it is held that when barriers to movement of labour are removed, labour reallocates and efficiency gains occur "Efficiency and distributional implications of global restrictions on labour mobility", *Journal of Development Economics*, Vol. 14, Nos. 1-2, Jan/Feb 1984, pp. 60-75.

7. Trempe *et al* recommend a modification of the immigration programme of Canada for handling temporary foreign workers away from a government-administered programme to an approval process that is commercially realistic and propose that the programme should focus on the bona fides of the employer rather than on labour market tests. R. Trempe, S. Davis, and R. Kunin, "Not just Numbers - A Canadian Framework for Future Immigration", Ottawa, 1997.

8. Robert Grosse, "Restrictive Business Practices in international service industries: Examples from Latin America", Transnational Corporation, Vol. VI, No. 2, August 1996.

9. See OECD, The World in 2020: Towards a New Global Age, 1997.

10. UNCTAD, "Strengthening capacities in developing countries to develop their environmental services sector", TD/B/COM.1/EM.7/2, 12 May 1998.

11. See UNCTAD, "International trade in health services: Difficulties and opportunities for developing countries" (TD/B/COM.1/EM.1/2), 7 April 1997.

12. See UNCTAD, "International trade in tourism-related services: Issues and options for developing countries" (TD/B/COM.1/EM.6/2), 2 April 1998; and UNCTAD, "Strengthening the capacity for expanding the tourism sector in developing countries" (TD/B/COM.1/EM.6/L.1), 11 June 1998.

13. "Leakage" refers to a lowered retention of tourism revenues due to imports of equipment and supplies, overseas promotional expenditures, repatriation of profits, repayment of foreign loans, etc.

14. See "A global framework for electronic commerce" available at: http://www.iitf.nist.gov/eleccom.

15. See "Emerging-market indicators: Telephone access and teledensity," The Economist, 4 April 1998, p. 114.

16. See UNCTAD, "Telecommunications, business facilitation and trade efficiency" (TD/B/COM.3/EM.3/2), 1 July 1997.

17. "Electronic commerce and the role of the WTO", WTO Special Studies 2, 1998.

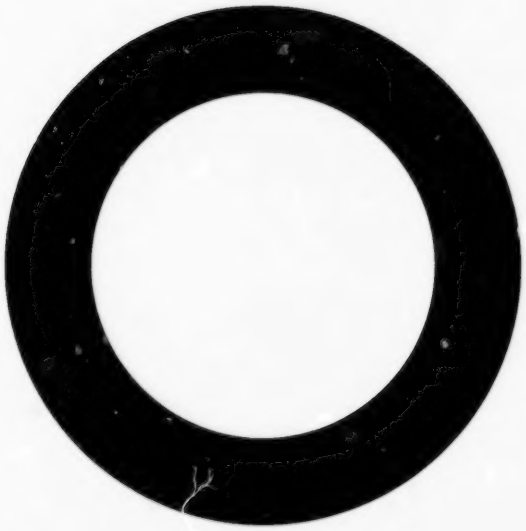
18. See *Trade and Development Report 1988*.

19. World Bank, *Global Economic Prospects and the Developing Countries*, 1995, chapter 3, p. 51.

20. The shortage in the United States has been estimated at 346,000 persons and in Europe at 165,000 persons. This need cannot be met owing to visa restrictions.

21. OECD Discussion Paper, "Dismantling the Barriers to Global Electronic Commerce", November 1997. C. Shaw, "E-commerce expected to be 21st century's mall," Vancouver Sun, 25 May 1998, C1.

22. See *World Investment Report 1997*, pp. 12-16.



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STATISTICAL ANNEX

The statistical needs of services trade negotiators, as well as those of national policy-makers, have not been met so far by the available data. Balance-of-payments statistics underestimate trade in services and basically cover cross-border and consumption abroad modes of supply. Governments have not collected data in a systematic fashion, and the data that are available are highly aggregated and not internationally comparable. Cross-border intrafirm electronic services transactions are not recorded in balance-of-payments statistics, and the sales and purchases of foreign-owned enterprises established in host countries (considered to constitute "trade" under the GATS) is not recorded. In-house services are recorded under the goods sector, and certain services may not be reported to avoid taxation. There is therefore a need to improve statistics before the next round of services negotiations. UNCTAD has joined inter-agency efforts to improve statistics on trade in services and is developing a database on Measures Affecting Services Trade (MAST).

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Development of the framework for trade in services statistics in the GATS context: the presence of natural persons

1. UNCTAD has joined the efforts of the inter-agency task force created to develop the first manual on international trade in services statistics, and it has proposed extending the exercise beyond the statistical framework for foreign affiliates' trade in services to include also the development of the framework for statistics on movement of natural persons. According to the GATS, the trade-in-services-related presence of natural persons in a foreign country labour market should be time-limited (as opposed to settlement) and connected to the provision of services. Services of natural persons could be supplied independently (including as business visitors), or through employment in foreign controlled firms (as specialists or intra-corporate transferees or in senior management positions) or alternatively on the basis of a services contract signed with a foreign or nationally controlled firm. In all cases, a wide range of activities and skill levels are involved. To grasp these diverse categories, the GATS services sectoral classification is not likely to suffice. In addition, since the presence of natural persons may not be separated from commercial presence in some instances, sectoral classification should be compatible with that of the foreign affiliate trade in services. Statistics sought for the presence of natural persons are not limited to obtaining their total numbers, but also cover income earned, countries of origin and duration of stay, as well as qualitative characteristics, including education and experience, etc. A distinction is made in the statistical sense between the movement of natural persons ("the flow") and the presence of natural persons ("the stock") in a given country at any given point in time. Measuring the services-trade-related foreign labour stock poses more problems for statistical data collection.

2. The development of the relevant statistical framework is limited by the costs associated with capturing these flows; problems of data reliability due to misrepresentation and missing information, and incompatibility of definitions for location and time periods selected render international data comparability difficult. Furthermore, there appear to be no internationally harmonized employment figures by activity available in which foreign workers would form a sub-set. In terms of statistical data availability, information for some categories of service providers would seem to be easier to obtain: enterprise surveys in the foreign affiliates trade data context would be likely to provide information on intra-corporate transferees and other foreign employees. In some countries, monitoring or control systems have been put in place for exports or imports of labour services, and information on lower-skilled labour employed in the services sector may thus be more readily available. More difficulties would arise in capturing independent service providers, as well as activities of business visitors. In addition, the type of contract would also determine the category to which the service provider would be assigned for statistical purposes.

3. The challenge is to develop a simple tool for international comparisons of trade in services through mode four that will impose a minimal additional burden on national statistical institutions and avoid duplication in collection. Any proposal for meeting the needs of the GATS will have to take account of the existing statistical frameworks and classification systems, principally those of the ILO and the UN, including the System of National Accounts (SNA), the International Standardized Industry Classification (ISIC), and the International Monetary Fund's Balance of Payments (BPM5) statistics.

All of these systems lack a number of features and have intrinsic data problems in the context of adequately addressing GATS needs. The BMP5 does not provide statistics on the activities of natural persons resident for more than a year, except that "workers' remittances" and "migrant transfers" record the money transfers they make. However, the latter does not distinguish between income earned in services or goods production. ILO employment statistics face compatibility problems with those in the SNA; a different sectoral classification is used, making the information obtained difficult to use. The ILO surveys are household-based, but do not account for multiple employment, while the SNA relies on the statistics of established enterprises that do not include the self-employed, or firms that fall below the set threshold size, which often tends to be the case of service-providing firms.

4. The UN Convention on the Protection of the Rights of All Migrant Workers (1990), though it did not define trade-related labour mobility, is the only international instrument that clarifies such temporary movements. However, the Convention's definition of what activities constitute services does not correspond to that of the GATS, since it excludes low-skilled workers in services sectors in some instances, while it partially includes those involved in manufacturing activities. The UN Recommendations on Statistics of International Migration, expected to be published shortly, are likely to provide additional insights into measuring international flows of people and information relevant for measuring trade-related movement of natural persons.

5. At present the aim is to build upon the strengths of the existing international statistical systems and to devise a conceptual framework and methodology suitable for GATS mode four statistical requirements. Based on the initial assessment, GATS needs in connection with mode four can only be met by going beyond the existing formally agreed international conventions and guidelines.

Table 1
Distribution of world exports: 1990 and 1996
(Shares in per cent)

Sector	Developing economies[a]		Developed economies		Other economies[b]	
	1990	1996	1990	1996	1990	1996
Goods	23.7	28.7	71.8	67.2	4.5	4.1
Services:	18.4	24.9	77.0	71.2	4.6	3.9
Travel	22.6	27.2	74.3	68.1	3.1	4.7
Transport	16.7	22.8	76.5	72.2	6.8	5.0
Other services	16.4	24.3	79.2	72.9	4.4	2.8

Source: Calculated from IMF balance-of-payments data.

[a] Excludes countries in Central Asia.
[b] Includes countries in Eastern Europe and Central Asia.

Table 2
Average annual growth in world trade: 1990 and 1996
(Percentages)

Sector	Developing economies[a]		Developed economies		Other economies[b]	
	Exports	Imports	Exports	Imports	Exports	Imports
Goods	10.9	12.5	6.2	5.5	5.8	4.4
Services:	13.0	9.3	6.0	5.6	4.5	7.0
Travel	11.8	12.9	6.8	5.7	16.4	12.9
Transport	11.1	9.5	4.5	4.6	0.3	7.0
Other services	15.1	7.5	6.3	6.2	-0.1	8.0

Source: Calculated from IMF Balance of Payments data.

[a] Excludes countries in Central Asia.
[b] Includes countries in Eastern Europe and Central Asia.

Table 3
Leading exporters and importers in world trade in commercial services, 1996
(Billion dollars and percentage change)

Rank	Exporters	Value	Share	Annual change	Rank	Importers	Value	Share	Annual change
1	United States	202.0	16.2	7	1	United States	135.3	10.8	5
2	France	87.2	7.0	-4	2	Germany	132.3	10.5	0
3	Germany	82.8	6.4	3	3	Japan	128.7	10.2	6
4	United Kingdom	74.9	6.0	6	4	France	70.4	5.6	-2
5	Italy	69.1	5.6	6	5	Italy	66.9	5.3	3
6	Japan	66.4	5.3	4	6	United Kingdom	61.9	5.0	7
7	Netherlands	48.1	3.9	2	7	Netherlands	44.6	3.5	-2
8	Spain	44.0	3.5	11	8	Belgium-Luxembourg	33.2	2.6	1
9	Hong Kong, China	38.9	3.1	9	9	Korea, Rep. of[a]	31.7	2.5	15
10	Austria	35.1	2.9	6	10	Canada	31.5	2.5	7
11	Belgium-Luxembourg	34.6	2.8	2	11	Austria	30.5	2.4	7
12	Singapore[a]	29.4	2.4	0	12	China[a]	26.3	2.1	7
13	Switzerland[a]	27.1	2.1	...	13	Taiwan, Prov. of China	24.5	1.9	3
14	Korea, Rep. of[a]	25.3	2.0	1	14	Spain	23.9	1.9	11
15	Canada	23.1	1.9	9	15	Hong Kong, China	22.3	1.8	4
16	China[a]	20.5	1.7	11	16	Thailand[a]	20.9	1.7	12
17	Australia	18.1	1.5	17	17	Sweden	18.8	1.5	10
18	Thailand[a]	17.1	1.4	18	18	Singapore[a]	18.6	1.5	13
19	Sweden	17.0	1.4	12	19	Australia	18.1	1.4	10
20	Taiwan, Prov. of China	16.5	1.3	7	20	Russian, Fed.	17.2	1.4	-9
21	Denmark	15.5	1.3	6	21	Malaysia[a]	16.9	1.3	18
22	Norway[a]	15.2	1.2	...	22	Norway[a]	16.5	1.3	...
23	Turkey[a]	15.0	1.2	...	23	Switzerland[a]	15.8	1.3	...
24	Malaysia[a]	14.1	1.1	27	24	Brazil[a]	15.2	1.2	15
25	Russian Fed.	10.6	0.9	6	25	Denmark	14.7	1.2	5
	Total of above	1047.8	83.2	...		Total of above	1036.7	81.8	...
	World	1260.0	100.0	5		**World**	1265.0	100.0	5

[a] WTO Secretariat estimates.
Source: WTO Annual Report 1997.
Note: Growth rates and ranking are sometimes affected by breaks in the time series due to different and/or changing statistical methods. See the Annual Report's technical notes. Annual statistics 1986-1996 are given in Appendix Tables A5 and A6. This table relates to Modes 1 and 2.

Table 4
GATS commitments for each mode of supply

I. Market access	Cross-border			Consumption abroad			Commercial presence			Natural persons		
	Full	Partial	No	Full	Partial	No	Full	Partial	No	Full	Partial	No
Business Services	46%	32%	22%	54%	34%	12%	24%	73%	3%	1%	93%	6%
Communication Services	19%	72%	9%	36%	55%	9%	6%	91%	3%	0%	94%	6%
Construction and Related Engineering Services	26%	12%	62%	53%	32%	14%	29%	64%	7%	0%	97%	3%
Distribution Services	31%	53%	16%	34%	56%	11%	17%	80%	4%	0%	96%	4%
Educational Services	48%	39%	12%	54%	40%	6%	25%	66%	9%	1%	92%	7%
Environmental Services	17%	21%	62%	51%	35%	14%	26%	74%	0%	1%	97%	3%
Financial Services	21%	33%	46%	34%	42%	24%	14%	84%	2%	2%	90%	8%
Health Related and Social Services	44%	4%	52%	71%	21%	8%	19%	77%	4%	0%	94%	6%
Tourism and Travel Related Services	42%	19%	39%	62%	27%	11%	30%	66%	4%	2%	89%	10%
Recreational, Cultural and Sporting Services	48%	29%	23%	56%	40%	4%	20%	71%	9%	1%	91%	8%
Transport Services	29%	31%	41%	47%	47%	6%	16%	76%	8%	1%	95%	5%
Other Services not included elsewhere	11%	44%	44%	11%	78%	11%	0%	78%	22%	0%	100%	0%
II. National treatment	**Cross-border**			**Consumption abroad**			**Commercial presence**			**Natural persons**		
	Full	Partial	No	Full	Partial	No	Full	Partial	No	Full	Partial	No
Business Services	50%	27%	22%	60%	27%	13%	57%	38%	5%	10%	82%	9%
Communication Services	39%	51%	10%	40%	48%	12%	32%	62%	5%	7%	84%	9%
Construction and Related Engineering Services	25%	13%	61%	51%	32%	17%	7%	83%	10%	0%	92%	8%
Distribution Services	30%	55%	15%	35%	56%	9%	14%	83%	3%	0%	96%	4%
Educational Services	42%	48%	9%	49%	45%	5%	8%	73%	19%	1%	92%	7%

I. Market access	Cross-border			Consumption abroad			Commercial presence			Natural persons		
Environmental Services	16%	26%	57%	51%	38%	10%	20%	79%	1%	1%	97%	2%
Financial Services	26%	27%	46%	37%	36%	26%	12%	85%	3%	1%	89%	10%
Health Related and Social Services	54%	4%	42%	73%	19%	8%	17%	73%	10%	2%	92%	6%
Tourism and Travel Related Services	48%	16%	36%	68%	19%	13%	61%	33%	6%	13%	73%	13%
Recreational, Cultural and Sporting Services	47%	35%	18%	55%	37%	8%	14%	75%	11%	2%	88%	10%
Transport Services	32%	25%	43%	56%	37%	8%	46%	43%	11%	13%	78%	9%
Other Services not included elsewhere	11%	44%	44%	11%	78%	11%	11%	67%	22%	0%	100%	0%

Note: Percentages may not add up to 100 due to rounding. Basis of total is listed sectors.

Notes:

1. This table analyses the commitments undertaken in the schedules of WTO Members for each mode of supply (cross-border supply, consumption abroad, commercial presence, and presence of natural persons) by classifying them into the following three categories:
   "Full": No limitations to market access or national treatment,
   "Partial": Commitments exist to grant market access or national treatment, but are subject to certain limitations.
   "No": No commitments in market access or national treatment.

   While the table reflects the results of the negotiations on basic telecommunications which entered into force on 5 February 1998, the results of the financial services negotiations concluded in December 1997 are not taken into account, since the latter commitments have not yet entered into force.

2. The denominator is the total number of commitments that can be made in the sectors and subsectors listed in the schedules of WTO Members. No account is taken in the calculations of the sectors or subsectors which were not listed in the schedules of Members.

3. Any measures restricting both market access and national treatment are scheduled in the market access column of the schedule in accordance with Article XX:2 of the GATS; therefore, the percentages indicated in the market access section of the table also take account of such measures.

Source: WTO Secretariat.

Table 5
Estimates of market size for long-distance service exports from developing countries, 1990
(US$ billions)

Destination country	Potential value of long-distance service exports	
	Low estimate	High estimate
Canada	1.8	5.3
France	2.2	6.5
Germany	6.3	18.9
Italy	2.6	7.9
Japan	9.6	28.8
United Kingdom	3.5	10.4
United States	14.4	43.1
Total G-7	40.3	121.0

Note: The low estimate assumes that the share of jobs with a high potential for long-distance provision in the destination country that can actually be contested internationally is 10 per cent. The high estimate assumes this ratio to be 30 per cent. Long-distance services cover software and computer services, including back office services.

Source: Adapted from Apte, Uday, 1994. "Global Disaggregation of Services: Growth Engine for the Less Developed Countries?", World Bank, International Economics Department, Washington, D.C., U.S.A.; ILO (International Labour Organization), 1993, *Statistical Yearbook*, Geneva: International Labour Office; and national sources of labour statistics. Taken from Global Economic Prospects and the Developing Countries 1995, World Bank.